

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH

WEDNESDAY, THE 14TH MARCH 2007 / 23RD PHALGUNA 1928

OP.No. 486 of 2003(G)

PETITIONER:

**SUKUMARAN. A., S/O. KUTTAN, AGED 43,
CHERUVILA VEEDU, KUDAZHANOOR,
PULIMATH PANCHAYATH, EMPLOYED AS DEFEDAR,
ATTINGAL MUNICIPALITY.**

BY ADV. SRI.R.S.KALKURA

RESPONDENTS:

- 1. ATTINGAL MUNICIPALITY, REPRESENTED
BY THE SECRETARY, ATTINGAL MUNICIPALITY,
ATTINGAL.**
- 2. J. VIJAYAKUMAR, PEON,
ATTINGAL MUNICIPALITY, ATTINGAL.**

BY ADV. SRI.B.JAYASURYA

**THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD
ON 14/03/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

ORDER ON CMP. NO.786/2003 IN OP. NO.486/2003

DISMISSED

14.3.2003

SD./- KURIAN JOSEPH, JUDGE

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE ORDER OF APPOINTMENT OF THE PETITIONER.

EXT.P2:- COPY OF THE CERTIFICATE OF SCHEDULED CAST COMMUNITY.

EXT.P3:- COPY OF THE SENIORITY LIST DT.7.12.01.

EXT.P4:- COPY OF THE ORDER DT.29.4.02 OF THE 1ST RESPONDENT.

EXT.P5:- COPY OF THE MEMO DT. 18.9.02.

EXT.P6- COPY OF THE EXPLANATION DT.24.9.02 SUBMITTED BY THE PETITIONER .

EXT.P7:- COPY OF THE ORDER DT. 23.12.02.

EXT.P8:- COPY OF THE APPOINTMENT LETTER EVIDENCING APPOINTMENT OF ONE SRI.JAYASREE.V.R.

EXT.P9:- COPY OF THE APPOINTMENT OF KRISHNA PILLAI.

RESPONDENTS EXHIBITS

EXT.R1(a):- COPY OF THE ORDER DT.9.9.02 ISSUED BY THE MUNICIPAL DIRECTOR.

EXT.R1(b):- COPY OF THE PROCEEDINGS OF THE 1ST RESPONDENT DT. 23.12.02.

/TRUE COPY/

tss

KURIAN JOSEPH, J.

O.P.No. 486 of 2003

Dated this the 14th day of March, 2007

JUDGMENT

The writ petition is filed with the following prayers:-

A) issue a writ of certiorari or any other appropriate writ, order or direction of the nature of certiorari quashing all proceedings to correct Ext.P3 seniority list initiated by the 1st respondent exclusive of Ext.P7 as grossly illegal and arbitrary.

B) issue a writ of mandamus or any other appropriate writ, order or direction of the nature of mandamus directing the 1st respondent to appoint the petitioner from the post of Defedar to the vacancy which arose on the death of Sri.Sivarajan.

According to the petitioner he has been working in the Attingal Municipality ever since 10-10-1994 whereas the second respondent joined Attingal Municipality only in 2002. Since it is a districtwise appointment, a subsequent transferee from another Municipality cannot gain seniority over the petitioner, it is submitted. There is no appearance for the second respondent. If the unit of appointment is district, when there is transfer from one district to another the transferee cannot carry with him the service rendered by him in the

erstwhile district for the purpose of seniority over the existing employee in the transferred district. That is a well settled position also. I quash the impugned proceedings. There will be a direction to the first respondent Municipality to take appropriate action to extend the benefit of seniority to the petitioner from the date of his appointment in Attingal Municipality within a period of one month from the date of production of a copy of the judgment. It is made clear that nobody in the respective cadre who joined the Attingal Municipality subsequent to petitioner's appointment shall be placed above him.

The writ petition is disposed of as above.

(KURIAN JOSEPH, JUDGE)

ahg.

KURIAN JOSEPH, J.

O.P.NO.486/2003

JUDGMENT

14th March, 2007